

Education, Skills and Children's Services Select Committee 4 November 2014

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Response to Additional Questions Asked by Mr Derek Berry

Introduction

These questions have largely already been answered in a response to a 'Freedom of Information Request' and by way of answer to a question raised at the last committee meeting, both of which came from Mr Berry. Notwithstanding this, it is hoped that the following answers will help to further clarify the position.

1. What actions have BCC taken to address their own officers' concerns that were expressed in the due diligence report that the exam might disadvantage some children?

This document was shared with the Grammar Schools and it was for them to pursue the issues it raised. They did so at a meeting with CEM, which representatives of Bucks CC attended by invitation only. At this meeting a large amount of data was presented and discussed. However, as far as this information is concerned, Mr Berry will need to contact the Grammar Schools. It is likely that the Bucks CC officers who were in attendance would have been asked questions at the meeting but that they would not have been in a position to record their answers.

2. What responsibilities and powers does BCC have in terms of ensuring fair educational outcomes for all of Bucks children, and how does it seek to exercise these responsibilities and powers?

As a local education authority/local authority, Bucks CC has a wide range of statutory roles and responsibilities towards the children in its area. These are listed in a document published in April 2014 by the Department for Education, which is available on the DFE website <https://www.gov.uk/government/collections/statutory-guidance-schools>.

They include duties to; ensure the existence of sufficient numbers of schools providing suitable education within the area; to promote high standards; to arrange for the provision of suitable education to children who by reason of exclusion, illness or other reasons find themselves out of school; and to make arrangements to establish (so far as it is possible to do) the identities of children in the area who are not receiving suitable education by attendance at school or otherwise.

However, in respect of those children who attend academies rather than local authority maintained schools, the local authority's duties and powers are really quite limited. They include; a duty on school standards, a duty to assess and provide for children with special educational needs, most notably through maintain Statements of Special Educational Needs; a duty to put in place school transport arrangements in accordance with national legislation and statutory guidance; and a duty to make provision for pupils who have been excluded from academies. However, as has been stated previously, given that the academies are independent from Bucks CC, being directly funded by and answerable to the DFE, Bucks CC lacks the power to intervene in relation to key areas such as admissions and the curriculum. Academies employ their staff, are their own admission authorities and are the responsible body both for the purposes of the equality act and health and safety legislation.

3. Why are Bucks C.C. being complicit in withholding the exam results from the public by agreeing to a confidentiality clause with BGSHA?

As Mr Berry was told in the response to his FOI request, the relevant clauses in the contract between Bucks CC and the Grammar Schools – which Mr Berry has seen - are not confidentiality clauses. Instead they simply reflect the fact that Bucks CC does not ‘hold’ information on the 11+ test for the purposes of the Freedom of Information Act. The information might be in Bucks CC’s physical possession but it nevertheless ‘holds’ it on behalf of another public authority/public authorities, to which Mr Berry has been directed. If we do not ‘hold’ information under the FOIA we bear no responsibility to disclose it. As Cllr. Appleyard commented at the County Council meeting of November 2013, data is only available post October 2014 and at TGBS’s agreement:

“The review and appeals process 2014 entry is not yet complete so we do not have the figures for this year. Furthermore the data controller for much of these data is the grammar schools and any summary produced for the current year will need to be at their request and agreed with them before release which would be Oct 2014 at the earliest.”

(Direct quote from Cllr. Appleyard, which was also provided to Mr Berry under a FOI response.)

4. What actions can this committee take to ensure that the test results for 2014 taken this September are made available in a timely manner?

Given the response to the previous question, this is entirely a matter for the grammar schools. Mr Berry has been informed on numerous occasions that this is the case.

Conclusion

By way of a general summary, given that academies are independent of the local authorities, there is little that Bucks CC can do to address Mr Berry’s concerns. However, as he has been advised on previous occasions, if he has any concerns about the way that local academies are operating – either individually or collectively – he might consider; 1) raising these with the academies themselves, perhaps via their formal complaints procedures 2) making a complaint to the Department for Education/Education Funding Agency; 3) making a referral to the Schools Adjudicator.